DowLohnes

November 26, 2007

VIA ELECTRONIC FILING

Marlene H. Dortch, Esquire
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Notification of Ex Parte Communication
MB Docket Nos. 06-121 and 02-277
MM Docket Nos. 01-235, 01-317, and 00-244

Dear Ms. Dortch:

This is to advise you, in accordance with Section 1.1206 of the FCC's rules, that on November 23, 2007, on behalf of Media General, Inc. ("Media General"), I met with Rick C. Chessen, Senior Legal Adviser/Media Advisor to Commissioner Michael J. Copps, to discuss the positions that Media General has previously taken on newspaper/broadcast cross-ownership, the reasons that repeal of the newspaper/broadcast cross-ownership rule is needed in small- and medium-sized markets, the proposed rule announced on November 13 by Chairman Kevin J. Martin, and possible approaches to resolving issues that have been raised in the proceeding. The attached material was provided in connection with the meeting.

As required by Section 1.1206(b), as modified by the policies applicable to electronic filings, one electronic copy of this letter is being submitted for each above-referenced docket.

Very truly yours,

M. Anne Swanson

Enclosure
cc w/encl. (by email):
Rick C. Chessen, Esquire

NOTE X to § 73.3555. Paragraph (d) of this section will not be applied so as to prohibit cross-ownership of a TV broadcast station and a daily newspaper, provided that the licensee of such TV broadcast station complies with the following requirements in the market in which it owns such daily newspaper:

1. (a) Station shall provide, during the hours of 5 a.m. to midnight on its analog channel, and after February 17, 2009, on its most watched digital channel, an average of five percent locally relevant and responsive programming, of which half must be locally produced by licensee or its affiliate, as documented in the station's public inspection file and on its website.

   (b) "Locally relevant and responsive programming" means local news and public affairs programming, and such programming also may include programming addressing issues and topics of local cultural interest, controversial issues of public importance, and issues of interest to minorities in the community; local sports; local weather information; educational or instructional programming; local children's educational programming; local and non-paid religious programming; and local or regional agricultural programming.

   (c) Licensee shall determine the local relevance and responsiveness of the station's programming through quarterly interviews of community leaders and quarterly meetings with viewers, which shall include representatives from local minority organizations or institutions, as documented in the station's public inspection file and on its website.

2. In the four weeks preceding a general election, station shall provide, during the hours of 5 a.m. to midnight on its analog channel, and after February 17, 2009, on its most watched digital channel, an additional two hours per week of locally produced news programming, interviews, and other public affairs formats that provide for debates or a discussion of ballot measures, ballot referenda, or positions of candidates or political parties in the forthcoming election. Such time shall not include paid political advertisements or free time for political candidates.

3. Station shall provide on its analog channel or, after February 17, 2009, on its most watched digital channel, an average per week of 100 non-paid public service announcements ("PSAs") of 30-seconds duration (or an equivalent amount of total PSA time) directed to matters of interest and concern to the local community, at least half of which are locally produced by licensee or its affiliate and do not promote station-sponsored events, as documented in the station's public inspection file and on its website.

4. All averages are to be computed on a calendar quarter basis.

5. Licensee on an annual basis, on the anniversary of its renewal application filing date or other consistent reporting deadline, shall complete and place in the

station's public inspection file and on its website FCC Form 395-B ("Broadcast Station Annual Employment Report") or such successor form for the workforce of the station.

6. Station shall not have a blanket prohibition on the sale of advertising time to non-federal candidates.

7. Licensee shall file annually a declaration by an officer, partner, or member attesting that the station has substantially complied with the terms of this Note in all material respects.

8. In the event that a complaint relating to non-compliance with the terms of this Note is filed with the Federal Communications Commission and not acted upon by the FCC staff within 180 days, such complaint shall be deemed denied, and its filer eligible to submit an application for review by the full Commission.

9. For the avoidance of doubt, all obligations set forth in this Note shall continue throughout the licensee's ownership of the TV broadcast station and a daily newspaper in the same market.

10. Any licensee that demonstrates compliance with the terms of this Note in its application for renewal of the station's license may have that application reviewed and disposed of by the FCC staff, acting on delegated authority. If any challenge to the renewal application raises a substantial and material question of fact regarding compliance with the terms of this Note that challenge may similarly be reviewed and disposed of by the FCC staff, acting on delegated authority.

Appendix A

ECONOMETRIC REVIEW

By
DR. HAROLD FURCHTGOTT-ROTH
FURCHTGOTT-ROTH ECONOMIC ENTERPRISES
WASHINGTON, DC

NOVEMBER 2007

new variables is immediately accessible to the public. Consequently, reviewers must take both the data and the regression results at face value.[38]

IV. The Consumer Commenters make several economic and econometric mistakes in Chapter IV that render the chapter results unreliable

The Consumer Commenters make several mistakes in Chapter IV. Among these are the following:

- Aggregating to market level to examine the effect of cross-ownership is incorrect;
- The specifications chosen by Consumer Commenters are clearly wrong;
- The use and interpretation of "policy variables" are incorrect;
- Consumer Commenters' theory of broadcaster behavior is speculative and not tested;
- The analysis of small markets in chapter IV is undocumented and wrong; and
- The conclusions presented for Chapter IV are inaccurate.

Each of these mistakes undermines the regression analyses and results presented in the chapter. Collectively, they render the results of the chapter unreliable.

A. Aggregating to market level to examine the effect of cross-ownership is incorrect

In response to the several station-level analyses in the FCC studies, including studies of cross-ownership, none of the peer reviews states that the FCC analyses are invalid because they should have been conducted at the market level. Yet Consumer Commenters argue that the proper level of analysis for the effect of cross-ownership is at the market level.[39] Curiously, despite the central importance that they attach to market-level analysis,[40] Consumer Commenters later in their report focus their attention on station-level analyses.[41]

Consumer Commenters suggest that "[t]he policy concern is about the total amount and diversity of news available to citizens in the market."[42] Although Consumer Commenters do not describe, much less provide a data base, of how the news variable used in their market-level regression analyses is constructed in each market, it appears to be based on hours of broadcast television news only. Excluded is news provided by

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[38] Particularly given positions that Consumer Commenters have taken in the past about public accessibility of information, it would be ironic if decision makers were to use the results of the analyses presented in the Further Comments.
[39] Consumer Commenters, Further Comments, at 87-89.
[40] "The most important step is to undertake a **market level analysis**. This is the central policy question, but the three studies that targeted the newspaper-TV ownership limit failed to conduct this type of analysis." Ibid., at 87.
[41] Ibid, e.g,. at 114-216.
[42] Ibid., at 88.

newspapers, radio stations, internet sites, etc.[43] Thus, despite claiming the centrality of total news and diversity of news in a market, Consumer Commenters' revised regressions presented in Chapter IV measure neither.[44]

Without aggregation, one observes the output of news by station. Within the same DMA, variations in news output can be attributed to variations in specific characteristics of the station such as ownership. When data are aggregated, the news output for a DMA reflects only the characteristics of the DMA, with more hours of broadcast news not surprisingly associated with larger DMAs in which there are more stations. Moreover, there are several econometric reasons that analysis of station-level data, where available, is preferable to more aggregated market-level data including the following:

- Aggregation is a common problem in applied econometrics and can lead to bias.[45] Aggregation from firm-level data to the market-level data masks the specific characteristics of heterogeneous firms. Many of those characteristics may have substantial effects on the production of news by the firm. Aggregating data loses this firm-specific information, such as ownership, affiliation, channel location, etc.
- In this specific instance, researchers are attempting to identify firm-level information—increases in news at the station-level—that cannot be identified with market-level data.
- With time-series cross-section data, a market-level aggregation would leave one with observations of news output for a DMA that likely vary little over time, certainly with less annual variation than station-level data. Clustering standard errors on DMAs does not compensate for including three or four observations for each DMA with little variation other than time in either explanatory or dependent variables. Not surprisingly, most of the market-level regression analyses find little significance in time-specific dummy variables.

B. The specification chosen by Consumer Commenters is clearly wrong

Most broadcast stations offer some news.[46] Consequently, in a market-level approach, if the quantity of broadcast news in a market is measured simply as the sum of news offered by each broadcast station in a market, one of the strongest predictors of the quantity of broadcast news in a market would be the number of stations in the market. That single variable, curiously, is omitted in the specifications by Consumer Commenters

[43] It is unclear whether cable local news, included in FCC study 3, is used by the Consumer Commenters in their studies.
[44] Ibid., at 87-109.
[45] The classical discussions of aggregation and aggregation bias are in H. Theil, *Principles of Econometrics*, John Wiley & Sons, Inc., 1971, at 556-570.
[46] See discussion of censored data with respect to Heckman regression techniques in the Consumer Commenters report. Ibid. at 204-07.

in Chapter IV.[47] The omission of that variable means that the regression results are much less precise.

Some of the variables included in the Chapter IV specifications are obvious proxies for the number of stations, but far less precise than would have been achieved directly by including a variable for the number of stations. The variable for DMA homes is a measure both of the size of the DMA and a proxy, although an inadequate substitute, for the number of stations in the DMA. Not surprisingly, as DMA homes increase, Consumer Commenters find the quantity of news and public affairs programming increases.[48]

The HHI for station revenues is not fully explained by the Consumer Commenters in describing their regression analyses.[49] The higher the HHI, the more likely that there are fewer stations and thus less news. Not surprisingly, as HHI increases, Consumer Commenters find the quantity of news and public affairs programming decreases.[50] But this is just an artifact of not directly including the number of stations rather than any reflection on the competition for news in the local market.

The regression factors described in the paragraphs above, together with the constant, are the consistent significant findings in the regression analyses presented in Exhibit IV-3. The regression results would likely have been more precise if, instead of these proxies, the regressions had included one variable: the number of broadcast stations.

C. The use and interpretation of "policy variables" is incorrect

Consumer Commenters examine a series of "policy variables" in Chapter IV with percentages in the regression analyses.[51] Some of these percentages become proxies for the number of commercial stations. For example, the percentage of Big 3 stations among commercial stations has an estimated negative coefficient, meaning that as the percentage of commercial stations that are Big 3 increases, the measured number of minutes of local news decreases.[52] The estimated coefficient is negative because the Big 3 are almost ubiquitously present, and thus the percentage of Big 3 stations is larger where there are fewer commercial stations, and thus there is less total local news in the market given the overall decline in station number.[53] The uninformed interpretation would be that more Big 3 stations lead to less news; this is exactly the opposite of the underlying data.

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[47] Curiously, such variables are included in regressions presented in Chapter VII. See Further Comments at 174-179.
[48] Ibid., Exhibit 3, at 96.
[49] This assumes that the HHI for station revenues is measured correctly. Consumer Commenters at 91 note that they will measure HHI, but there is no precise description of how it is constructed from underlying data.
[50] Consumer Commenters' Further Comments, Exhibit IV-3, at 96.
[51] Ibid., at 91.
[52] Ibid., at Exhibits IV-3, at 96.
[53] Stated slightly differently, the relevant variable, the number of commercial stations, is in the denominator of the variable, and the number of Big 3 stations is in the numerator. News and the number of stations are

A better and more accurate method to measure the contribution of various types of stations to total news would have been to have a dummy variable for each major network or ownership type as was done in FCC Study 3.[54] In that manner, one could more precisely attribute incremental news to different categories of stations.

Consumer Commenters interpret the policy variables and cross-ownership variables presented in Exhibit IV-3 as meaning that cross-ownership leads to less news;[55] this interpretation is incorrect for several reasons. The misinterpretation of causation is described above. Some of the problems with the underlying construction of variables are described above. Most of the estimated coefficients are insignificant. The Consumer Commenters note that some of the estimated coefficients for cross-ownership are negative, but most of these estimated coefficients should not be emphasized because they are still largely insignificant.

D. Consumer Commenters' theory of broadcaster behavior is speculative and not tested

Consumer Commenters postulate a theory of broadcaster behavior in markets with newspaper cross-ownership that has at least three parts:

1. Stations with newspaper cross-ownership possibly may air more news;
2. Other stations in the market will react by offering less news; and
3. The net sum of broadcast news in a market will decline.[56]

The proper test for at least the second part of this theory is not the market-level regression analysis suggested, but never actually run, by Consumer Commenters. Rather, a better test would be based on station-level data with a dummy variable for cross-owned stations and a separate dummy variable for non-cross-owned stations in the same market with cross-owned stations. With a specification similar to that of Crawford, Table 17,[57] one would then test whether the estimated coefficient on non-cross-owned stations in the same market with cross-owned stations is negative and significantly different from zero, or at least less and significantly different from the estimated coefficient for cross-ownership. If one can reject the hypothesis, then one has a foundation to claim that decreases in news market wide, at least as measured,[58] is associated with increases in cross-ownership. If one cannot reject the hypothesis described above for the estimated

closely and positively related. The estimated coefficient for any variable with number of stations in the denominator will likely be negative.

[54] G.S. Crawford, "Television Station Ownership Structure and the Quantity and Quality of TV Programming," July 2007, FCC Study 3, Tables 17-26.

[55] Consumer Commenters' Further Comments at 95-98.

[56] Consumer Commenters' Further Comments at 88.

[57] Crawford, at 46.

[58] One is still left with the task of measuring overall news or programming in a market. As noted earlier, the Consumer Commenters only appear to include broadcast television programming, omitting all other forms of news such as newspapers, radios, cable, internet, etc.

coefficient on the non-cross-owned station for step 2 above, one need not proceed with constructing a test for step 3, based on the overall market.

E. The analysis of small markets in chapter IV is undocumented and wrong

In Section IV, Consumer Commenters present an analysis of cross-ownership in small markets comparing all markets and small markets both with respect to the minutes of news produced and the number of stations airing news.[59] The regression results for the number of stations airing news do not appear to be presented in the statistical appendices. Moreover, the mean of the number of stations airing news is 7 for all markets and 4.2 for small markets.[60] With dependent variables that are almost entirely single-digit integers, ordinary least squares (OLS) regression analysis, the approach used by Consumer Commenters, is not likely an appropriate estimation technique. A limited dependent variable regression technique would be more appropriate.

Even if the Consumer Commenters had used a more appropriate regression technique, even if the documentation of their analyses were more complete, and even if all of the other errors in Consumer Commenters' econometric analyses described in this report were solved, the splitting of the sample for market level variables is inappropriate for analysis of cross-ownership effects.[61] As described above, there are too few observations of DMAs with cross-owned properties to permit meaningful measurement and distinctions between grandfathered situations and waiver situations in a market-level analysis. To further divide the sample into two parts increasingly diminishes the interpretation of the cross-ownership variables. Fewer observations of cross-ownership in a partitioned data set mean that the DMA-level cross-ownership dummy variables are more likely to capture DMA information unrelated to cross-ownership.

Sample statistics are not even available to determine how many cross-ownership situations fall into large and small markets in this analysis, much less which ones. The further splitting of a small number of cross-ownership DMA observations in small markets into DMAs with separate grandfathered situations and DMAs with cross-ownership operations with waivers almost certainly yields a very small number of observations for each.[62] The resulting estimated coefficients on these variables in the analyses presented by the Consumer Commenters cannot be meaningfully interpreted.

F. The conclusions presented for Chapter IV are inaccurate

Among the conclusions that Consumer Commenters present in Chapter IV with respect to cross-ownership based on their analyses constructed from market-level data are the following:

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[59] Consumer Commenters' Further Comments at 98-101.

[60] Ibid., Exhibit Iv-4 at 100.

[61] Surprisingly, Consumer Commenters provide no formal tests of whether estimated coefficients are the same for the partitioned data set.

[62] Indeed, Consumer Commenters, in a different context with station-level data, note the problems associated with partitioning data into small samples. See Consumer Commenters with respect to WGN at 208.

- Cross ownership in a market reduces the amount of news available in that market.
- Cross ownership in a market does not significantly increase the number of stations providing news.
- Cross ownership in small markets does not significantly increase the number of stations providing news or the quantity of news provided.[63]

The initial conclusion—even if the Consumer Commenter regression analyses were all fundamentally sound and correct, which, as explained above, they are not—is simply incorrect. The results in Consumer Commenters' own Exhibit IV-3 tend to show no significant effect of cross-ownership on levels of news or public affairs programming aired in a market, meaning that a conclusion cannot be drawn one way or the other. These results of no significant effect are at variance with many of the findings in the FCC studies of a significantly positive effect of cross-ownership on news programming.[64]

The next two conclusions of Consumer Commenters with respect to the effect of cross-ownership on the number of stations offering news programming—even assuming the Consumer Commenter methodology is correct which it is not— may or may not be accurate. The results for these analyses summarized in the report are not documented or reflected in the statistical appendix in a manner that can be reviewed and replicated.

The entire separate analysis of small markets is so flawed for so many reasons described above that the results with respect to cross-ownership cannot be meaningfully interpreted.

V. The Consumer Commenters make economic and econometric mistakes in Chapter VII that render the chapter results unreliable

In Chapter VII, the Consumer Commenters make several findings with respect to the factors affecting station revenue.[65] To examine the relationship between station revenues and various factors, the Consumer Commenters perform a series of OLS regression analyses with the results presented in Exhibits VII-9 through VII-14.

Curiously, the specification includes the number of minutes of programming, including local and national news as predictors of station revenue. But, given the high cost of producing news, station revenue is also likely a predictor of the number of minutes of local news that a station produces and the number of minutes of national news that a station implicitly purchases. Moreover, in much of Chapters IV and VIII, the Consumer Commenters go to great lengths to use regression analysis to estimate the

[63] Further Comments at 109. They also include "Ownership matters, as measured by slant in political coverage." I have not reviewed this issue in-depth here.
[64] See Crawford, FCC Study 3.
[65] Ibid., at 174-186.

Effects of Newspaper-Television Cross-Ownership on Total Market News Minutes: Response to "Further Comments of Consumers Union, Consumer Federation of America and Free Press"

Kent W Mikkelsen

November 1, 2007

1. My name is Kent W Mikkelsen. I am a Senior Vice President at Economists Incorporated, an economic research and consulting firm. I hold a Ph.D. in Economics from Yale University. I have extensive experience analyzing both the newspaper industry and the television industry. I have prepared a number of reports on the subject of newspaper-television cross-ownership that were submitted in earlier Commission proceedings on behalf of the Newspaper Association of America (NAA).

2. I have been asked by counsel for NAA to analyze a portion of "Further Comments of Consumers Union, Consumer Federation of America and Free Press (CU/CFA/FP)," submitted in this proceeding on October 22, 2007. In particular, I was asked to comment on the CU/CFA/FP analysis contained in Chapter 4 relating to the effects of newspaper-television cross-ownership on television news minutes in a market.

3. Early in this chapter, CU/CFA/FP cites with approval a statement by Dr. Leslie Marx, the former Chief Economist at the FCC:

> In what follows, I assume that cross-ownership has the potential to decrease the quantity or quality of news coverage of local public affairs available in the local media. If it does not, then one could justify dropping or significantly relaxing the cross-ownership restriction on those grounds alone.[1]

The standard laid out in this statement is one that would be adopted by most economists: if certain conduct causes no harm, then the conduct should not be prohibited. Applying this standard, I find that the analysis of the effect of cross-ownership on news minutes within a market presented in CU/CFA/FP—assuming its validity—supports "dropping or

[1] CU/CFA/FP pp. 87-88, quoting Leslie M. Marx, "Summary of Ideas on Newspaper-Broadcast Cross-Ownership," June 15, 2006, p. 3.

significantly relaxing" the newspaper-television cross-ownership restriction rather than retaining it. The results presented in CU/CFA/FP show no statistically significant reduction in total market news minutes when a market has a cross-owned television station.

4. Before turning to the statistical results, it is important to point out that, in addition to there being no significant statistical evidence for a decrease in news minutes within a market with cross-ownership, CU/CFA/FP provides no coherent theory of why one might expect a market-wide decrease in broadcast news minutes to result from cross-ownership. CU/CFA/FP's argument appears to run as follows. First, CU/CFA/FP apparently accepts that a cross-owned station will have an advantage in producing news, and that as a result it will tend to produce more minutes of news than if it were not cross-owned, holding other factors constant. CU/CFA/FP then asserts without support that other stations will react by reducing the amount of news they provide. The reader is left to make the leap from potential reductions by other stations in the market to a conclusion that any such reductions would exceed the increase in news minutes at the cross-owned station, thereby reducing total news minutes in the market.

5. Several studies, including three sponsored by the FCC for this proceeding, have found that a cross-owned television station tends to have more news minutes. The principal reason for this result appears to be that when a television station is cross-owned with a newspaper, resource sharing reduces the station's cost of producing news. When the cost of production for a firm is reduced, economic theory predicts that the firm will expand output, other factors being equal. With a given level of demand for news in the market, this would tend to increase the share of total news minutes produced by the cross-owned station. However, the net effect on total news minutes should be positive, not negative. Even if one or more of the non-cross-owned stations were to decrease their news output—which has not been shown to be the case—no theory has been offered that predicts they would reduce their news minutes by an amount greater than the amount of the increase by the cross-owned station. Following the reduction of cost for a firm in the market, the market should be able to sustain profitably more news minutes—or certainly no fewer news minutes—than without the cross-ownership.

6. CU/CFA/FP's statistical result—finding no significant decrease in market-wide news minutes associated with cross-owned stations—is therefore unsurprising. The principle results are shown in CU/CFA/FP's Exhibit IV-3. CU/CFA/FP uses data from FCC-sponsored Study 3 and Study 4 to create market-level variables for news minutes and public affairs minutes. Regressions are estimated using a set of market-level variables. The estimated coefficient on the variable indicating the presence of a cross-owned firm in the market, though negative, is statistically not significantly different from zero in any of the four regressions. Failure to find a statistically significant negative effect is support for eliminating the restrictions on cross-ownership.

7. I have not tested how sensitive CU/CFA/FP's results are to the particular variables included in the regressions. It is my understanding that the transformed data CU/CFA/FP used for its regressions has not been made available. There are a number of peculiarities in the choice of variables and the way those variables were defined. For example, in enumerating the ways in which its analysis improves on various FCC-sponsored studies, CU/CFA/FP claims as a virtue of its study that it includes "all of the other policy relevant variables in the analysis—duopolies, local ownership, female ownership, minority ownership, TV-radio cross-ownership, and TV-newspaper cross-ownership." (p. 91) First, this claim appears to be incorrect. TV-radio cross-ownership is not listed as a variable included in the regressions in CU/CFA/FP's Exhibit IV-2 or on pages 94-95, nor does it show up in the regression results in Exhibit IV-3. Second, even though some of these may be policy variables of interest to the FCC, it is appropriate to include them as explanatory variables in a regression only if there is some reason to believe that they influence the dependent variable, total news minutes in the market. On page 97, CU/CFA/FP states that there is no hypothesis that female-owned or minority-owned stations will carry more minutes of news. One wonders how the results of CU/CFA/FP's regressions were affected by the omission of one variable CU/CFA/FP claims to be relevant and the inclusion of two other variables it believes are irrelevant—but which could nonetheless alter the regression estimates.

8. Another peculiarity in CU/CFA/FP's regressions is the way that certain variables were defined. It is not unreasonable to suppose that stations affiliated with one of the major broadcast networks will tend to produce more news minutes, other factors being the same, than stations without such an affiliation. It is odd, however, that CU/CFA/FP treats affiliation with Fox quite differently than it treats affiliation with ABC, CBS or NBC ("big 3"). At the market level, CU/CFA/FP calculates the number of stations in a market affiliated with one of the "big 3" as a percentage of the commercial stations in the market. The practical effect of this procedure is that the effect of a "big 3" affiliate in a market with many stations is smaller than the effect of such an affiliation in a market with few stations. By contrast, CU/CFA/FP assumes that the presence of a Fox affiliate in the market changes the total news minutes by some standard amount that does not vary with the number of other commercial stations in the market. The effect of stations being owned and operated by ABC, CBS, NBC or Fox is treated like the "big 3" affiliation—i.e., calculated as a percentage of commercial stations in the market—except that in this case Fox O&Os are included in the same variable as O&Os of the other major networks. The effect of cross-ownership on total market news minutes is assumed to have the same form as the presence of a Fox affiliate—i.e., the presence of a cross-owned station in the market is assumed to increase or decrease total news minutes by a standard amount that does not vary with the number of other commercial stations in the market. Again, one wonders whether CU/CFA/FP's regression results would be altered if these variables were defined in a consistent fashion.

9. CU/CFA/FP searches further for a statistically significant result from cross-ownership by distinguishing between "grandfathered" cross-owned stations, which were already cross-owned when the FCC's 1975 cross-ownership ban was introduced, and "waived" cross-owned stations that were granted temporary permission after 1975. CU/CFA/FP's rationale for examining grandfathered and waived cross-owned stations separately is that the behavior of the waived stations may be altered because they are "on their best behavior." (p. 90) When regressions are run permitting the presence of a grandfathered cross-owned station to have a different effect on total news minutes than a waived cross-owned station, CU/CFA/FP achieves (with grandfathered cross-owned sta-

tions) the only negative result that is statistically significant at the conventional 5 percent level.

10. Unfortunately, the reason CU/CFA/FP gives for making this distinction is contradicted by other statements that CU/CFA/FP makes. On page 194, CU/CFA/FP notes that "waived stations were outperforming grandfathered stations. This is consistent with our theory of 'good behavior' by the owners of these stations." To further clarify the meaning of "good behavior," one can consult CU/CFA/FP's Exhibit VIII-2 on page 193. There it is reported that a waived cross-owned station has a greater increase in news minutes (relative to a non-cross-owned station) than a grandfathered cross-owned station. In other words, "good" or "best" behavior by a waived cross-owned station means increasing its output of news minutes by a large amount.

11. This finding can now be applied back to the market-level effects of cross-ownership that are the subject of Chapter 4. The theory in Chapter 4, as described above, is that an increase in news minutes by a cross-owned station causes other stations in the market to decrease their news minutes by such a large amount that total news minutes in the market are reduced. Given that waived stations on their "best behavior" have a larger increase in news minutes than grandfathered cross-owned stations, as CU/CFA/FP affirms on pages 193-4, one would expect that if there is a reduction in total market news minutes associated with cross-ownership, it should be larger for waived cross-owned stations than for grandfathered cross-owned stations. But this is the exact opposite of what CU/CFA/FP finds when they estimate separate waived and grandfathered cross-ownership effects on total market news minutes.

12. In fact, if it were true that cross-ownership led to a reduction in total market news minutes, there is no reason to think it would be appreciably different for waived and grandfathered cross-owned stations. If, as CU/CFA/FP believes, rival stations will respond to a cross-owned station by reducing their news minutes, it would not take long to put this decision into effect. There is no basis to believe that only stations in markets with grandfathered cross-owned stations would have had time to make such an adjustment.